

On this day came on for consideration the Agreed Motion for Severance filed by Defendants Sun Optics USA (“Sun Optics”), SMTS, LLC d/b/a Tuff Zone (“SMTS”), and TRARMS, Inc. (“TRARMS”) (collectively “Defendants”), Counter-Plaintiff Chuanwen Shi (“Shi”), Third-Party Defendant Continental Incorporated, Inc. (“Continental”) and Plaintiff Leapers, Inc. (“Leapers”). Upon consideration of the motion, the Court finds that good cause exists to grant the relief requested.

IT IS THEREFORE ORDERED that:

1. Counts III through VI of the counterclaim filed by SMTS, TRARMS, and Shi (Dkt #43) are hereby severed from the above-numbered and entitled civil action (the “Original Civil Action”);
2. The clerk of the Court is directed to create a new separate civil action number on this Court’s docket for Counts III through VI (the “New Civil Action”);
3. Counts III through VI are hereby transferred from the Original Civil Action to the New Civil Action to proceed as a separate case; and
4. The parties are realigned in the New Civil Action such that SMTS, TRARMS, and Shi are denoted as Plaintiffs and Leapers and Continental are denoted as Defendants.
5. Plaintiffs SMTS, TRARMS and Shi have twenty-one (21) days from the date they receive notification from the clerk of the institution of the New Civil Action to file an Amended Complaint. Defendants Continental and Leapers have

twenty-one (21) days from the date that Plaintiffs file their Amended Complaint to answer or otherwise respond.

6. Counts I, II, VII and VIII are hereby dismissed without prejudice. Defendants reserve any rights they may have under 15 U.S.C. §1117(a) to seek an award of attorney's fees under the standard that this case is exceptional.

7. The applicable statutes of limitations of Defendants' claims under Counts I, II, VII and VIII are tolled until the later of the conclusion of any proceeding in the Sixth Circuit, the issuance by the Sixth Circuit of a mandate under Fed.R.App.P 41, or the remand of proceedings back to this Court.

SO ORDERED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 2, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, December 2, 2016, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522